



## **COMMUNITY DEVELOPMENT DEPARTMENT**

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### **PLANNING COMMISSION MEETING MINUTES**

#### **REGULAR MEETING**

**DECEMBER 13, 2005**

**PRESENT:** Acevedo, Koepp-Baker, Benich, Escobar, Lyle, Mueller

**ABSENT:** None

**LATE:** Davenport who arrived and was seated at 7:04 p.m.

**STAFF:** Planning Manager (PM) Rowe and Minutes Clerk Johnson [Staff involved with the scoring were introduced during the public comment period.]

Chair Lyle called the meeting to order at 7:01 p.m., and led the flag salute.

#### **DECLARATION OF POSTING OF AGENDA**

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

#### **OPPORTUNITY FOR PUBLIC COMMENT**

Chair Lyle presented the opportunity for public comment.

Announcing that this evening's meeting would be devoted to the Measure C scoring for the Downtown area and affordable projects, PM Rowe told procedure of review of the applications received. PM Rowe then introduced the City staff in attendance who had worked on scoring: Senior Planner (SP) Linder and Senior Planner (SP) Tolentino of the Planning Division; Ryan Rucker of the County Fire Department; Deputy Director of Public Works (DDPW) Bjarke, Senior Civil Engineer (SCE) Creer, Associate Engineer (AE) David Gittleson, and Assistant Engineer (AE) Charlie Ha of the Public Works Department; Chief Building Official (CBO) Larry Ford; and Business Assistance & Housing Analyst (BAHSA) Bill Newkirk. PM Rowe said that Deputy Director of Public Works (DDPW) Mori Struve and Assistant Planner (AP) Heather Phillips, who scored the Parks and Paths and the Natural and Environmental categories, respectively, were not present at this meeting, but had worked hard on the process.

With no member of the audience indicating a wish to address matters not on the agenda, the time for public comment was closed.

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MINUTES:

NOVEMBER 8, 2005      COMMISSIONERS ACEVEDO/MUELLER MOTIONED TO APPROVE THE NOVEMBER 8, 2005 MINUTES WITH THE FOLLOWING CORRECTIONS:

Page 4, paragraph 2, line 4: sales *and property*

Page 4, last paragraph, line 4: waiver<sup>2</sup>.

Page 5, paragraph 2: ~~Chair Lyle questioned the figure of \$2.5 million net gain being re-capturable if \$80 million of lost business occurred throughout the rest of the City. "Then we would see the impact of lost revenue," Chair Lyle said.~~ Chair Lyle questioned the merit of a \$2.5 million annual tax gain since \$800,000 of it comes from this project taking \$80 million in sales from businesses throughout the rest of the City.

Page 9, paragraph 8 (add): "Why would it be a 'deal killer' for Morgan Hill if that was not the case in Gilroy – if their agreement is different, why not the same for Morgan Hill?" he asked.

Page 11, paragraph following the motion, line 4: ..... forgiving of ~~\$1.5~~ \$11.5 million...

THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: BENICH; ABSENT: NONE.

NOVEMBER 29, 2005      29, COMMISSIONERS ACEVEDO/ESCOBAR MOTIONED TO APPROVE THE NOVEMBER 29, 2005 MINUTES, WITH THE FOLLOWING MODIFICATIONS:

Page 6, last line: ~~ties~~ tiles

Page 8, paragraph 7 (add): ... notifying *workers and* guests

Page 10, paragraph 3: ...matter of *number of* telecommunications installations *on that site*

Page 10, last paragraph: apply to ~~all~~ multiple projects

Page 11, first paragraph, line 2: ~~stockholders~~ stakeholders

THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: DAVENPORT; ABSENT: NONE.

Chair Lyle announced the ground rules for the hearings (there would be discussion if warranted and time limits would be adhered to). In order to facilitate understanding by the members of the audience, Chair Lyle explained what the Commission was doing during this discussion: the growth control measure passed by the voters created the intent: to set up and evaluate applications based on established criteria. This evening, Chair Lyle indicated, the Commissioners would evaluate 11 projects, 9 for downtown and 2 affordable projects for FY 2007-08 and FY 2008-09. PM Rowe stated that this evening's meeting would not result in project approval, but would establish - through the use of a point system - eligibility to go through a process which would require more public hearings with those being a 'year or so out' when members of the public could comment on the 'particulars of projects'.

Commissioner Acevedo asked when the point cut off would be set? Chair Lyle said it would not be at this meeting, as there will be need for rescoring. He reminded that the

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staff scores all categories and recommends the award of points, except for the two points that are the Commissioner's responsibility and discussion, will culminate in the awarding of those two points at the next meeting in January 2006.

### PUBLIC HEARINGS:

#### **1) MC-05-02: JARVIS-SOUTH COUNTY HOUSING**

Applicants for the following proposed residential developments have requested a building allotment under the City's Residential Development Control System pursuant to Chapter 18.78 of the Morgan Hill Municipal Code:

#### **AFFORDABLE COMPETITION:**

A request for a Residential Development Control System (Measure C) building allocation for Fiscal Year 2007-2008. The project at build out will consist of 256 dwelling units on 15.77 acres located north of a proposed extension of Jarvis Drive, west of Butterfield Boulevard. The development will be a mix of ownership town homes and affordable rental apartment units.

PM Rowe reported the scoring adjustments:

- One point was added in the Orderly and Contiguous Category, for a total of 16 points
- One point was added in the Lot Layout Category to B-1-e for a total of **179.5 points**

Chair Lyle opened the public hearing and acknowledged Jan Lindenthal, 9015 Murray Ave., St. 100, Gilroy, representing South County Housing Corporation. Chair Lyle announced this application scored 20 points above the next affordable project.

Ms. Lindenthal said the Agency is 'very happy' with the score and knew it could be done. She raised the following issues and asked for more points in the following categories:

- Lot Layout: Points were given for variation in the front yards, but not the back-yards
- Livable Communities: Additional points deserved. As in the past, with an application part of a larger project, the application got two points in the Livable Communities Category, and this application has the same looping street pattern and the same space. "We feel this design is superior to prior ones, with attention to parking garages and porches," Ms. Lindenthal said.
- Safety and Security: This project is competing as a multi-family project.

With no others present to address the matter of MC-05-02, the public hearing was closed.

Commissioner Acevedo recalled that the point systems for Safety and Security had been discussed in the workshop just prior to the meeting and asked about the points. PM Rowe said staff is to review the application for additional information.

#### **2) MC-05-09: E. CENTRAL-URBAN HOUSING**

A request for a Residential Development Control System (Measure C) building allocation for Fiscal Year 2007-2008. The project is a 49 unit affordable apartment development on 2.77 acres located on the south side of East Central Avenue, west of the Union Pacific Railroad Tracks.

Chair Lyle announced this application meets the minimum score and will receive

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allotments.

PM Rowe said the application scored **159.5**, with no changes from revised Exhibit B. Chair Lyle opened the public hearing.

John Bigley, 2000 E. 4th St., Santa Ana, with Urban Housing Communities, said the applicants may look at doing senior affordable housing.

Chair Lyle noted that in a number of places in the staff report, it was indicated that McLaughlin Avenue needs to go through and he wondered if the applicant is prepared to 'make that happen'? Mr. Bigley said the applicant will 'take a look' at it. He told of dealings with a neighboring property owner and said he was unsure at this time of the ability to do so.

Vince Burgos, Development Processing Consultant, San Francisco, said he had been called in to look at being able to move the proposed buildings over and extend the road. "If we reduce the footprint, we will have the ability to do it, but there is a need for reconfiguration," Mr. Burgos said. "We also need to be able to complete the reconfiguration within the time frame allotted."

Mr. Burgos asked about Circulation Efficiency points for providing access to adjacent properties (page 53) and said the application had not received points for eliminating the stub. He asked for points in the Circulation Efficiency Category based on that elimination.

PM Rowe noted that Public Works had found the application consisted of a single phase development.

Mr. Burgos said that based on an allocation of 21 units, then building allocations are acquired June 30, 2008 with an additional 28 on July 1, 2008 that would be phasing.

Chair Lyle said that the question for all applicants would be 'if you do what you say and have second-year allocations, the Commission will be looking for a better indication of when the project and the specific phases will begin'.

Commissioner Mueller asked if financing is part of the survey (application). PM Rowe responded, "Yes, but the survey has not been done yet."

Steve Loupe, 1951 Nora Dr., Hollister, said he is the Engineer for project, and called attention to Public Facilities criterion 2a on page 29 of the project narrative. Mr. Loupe explained that the water main from East Main to Central goes through the parking lot. He read from the City Standards and told the Commissioners why the design is reasonable for 2 points.

With no others present to speak to the matter, the public hearing was closed.

AE Gittleson said that the scorers did feel the applicant met the standards for public property, but this is private property [parking lot] and the applicant has not offered evidence of an easement.

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Chair Lyle talked about concerns of McLaughlin and asked why SCE Creer has assured those concerns are being mitigated? SCE Creer responded that if McLaughlin becomes a through street that will eliminate the need for a traffic signal. SCE Creer said points were given for adjacency, but in this application no commitment was made, so no points were given. He called attention that the stub was being extended, but not eliminated.

Chair Lyle asked if McLaughlin Avenue were to connect to Central Avenue, would a point be given. SCE Creer answered that the application did not indicate that was what was for sure being done, so points were not given. PM Rowe reminded that staff could only score on what is seen in the application.

Commissioners agreed that no further changes to the score would be made.

“But I would give points,” Commissioner Mueller said, “if McLaughlin goes through and becomes a common access point to the south; however, this is not designed as a classic stub, but on the property line.”

Commissioner Acevedo called attention to the issue of the water main: it doesn’t say if it needs to be on private or public property. Staff said the water main is not within a right-of-way.

Commissioner Mueller pointed out that Commissioner Acevedo has been reading from the City Standard. Chair Lyle said it may need to be clarified in the future, but is consistent now.

*Chair Lyle announced the conclusion of the Affordable Completion and moved Commission discussion forward to other matters.*

### **DOWNTOWN OPEN MARKET COMPETITION:**

#### **3) MC-05-05: MONTEREY- ALCINI**

A request for a Residential Development Control System (Measure C) building allocation for Fiscal Year 2007-2008. The project is a vertical mixed use development on 1.83 acres consisting of 11,500 square feet of ground floor retail space and 30 residential condominium units above. The development will be located at the northeast corner of Monterey Road and Bisceglia Avenue.

PM Rowe advised of the possibility of integrating this application with a prior year Measure C project to the east. Scoring was completed according to the application, he said. With an adjusted score of **177.5**, this application was the top scoring in this competition, PM Rowe stated.

Chair Lyle opened the public hearing.

Mr. Burgos spoke to the Commissioners as a representative of the applicant. “The scoring reflects the quality of the project,” he said. Mr. Burgos offered clarification regarding the pathway that continues to the sidewalk, which meanders and connect to East Bisceglia. Under Circulation Efficiency, page 54, B-1-c, this application didn’t get recognition as he asked, “Why not?” Mr. Burgos then spoke of another connection: the common drive coordinated with the property on East Bisceglia. “Staff says this is not connecting to a public property. The City owns that property,” Mr. Burgos said.

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With no others present indicating a wish to speak to the matter, the public hearing was closed.

SCE Creer said with respect to:

- the pathway; the application when referencing the pathway indicates that it is only on the boundary adjacent to the parking lot - not through the common area with respect to the drive aisle, the application is entitled to one point [page 54 1-c]

Chair Lyle said the connection into a shared access is through the driveway.

Commissioner Mueller said the applicant has not done a good job of providing public access. "With five different movements in a tight area, there may not be reasonable public access considering the number of units planned and the number of cars to travel," he said.

SCE Creer explained that because these allocations are in a new competition, it was difficult to score, as there was no prior basis on which to rely. "We were trying to be fair. At the same time, we concur with the 'complicated movement'.

Commissioner Mueller offered the thought that as the application/development goes into project implementation, it will have to be redesigned.

The Commissioners discussed the matter with the deliberation centered on:

- recurring problems of having a 'shared project' owned by same owner
- until October 5, 2005, the two projects were in different zoning districts
- the two projects could be combined and 'done much better'

Commissioner Koepp-Baker commented that on face of what's written, she is 'ok' with a point [page 57 B- 6-a] for the Circulation Efficiency.

Total points for MC-05-05: Monterey-Alcini: **178.5**

#### 4) MC-05-06: E. MAIN-AHLIN

A request for a Residential Development Control System (Measure C) building allocation for Fiscal Year 2007-2008. The project is a 136 unit townhouse development on 6.15 acres located at the southwest corner of East Main Avenue and Butterfield Boulevard.

**168.5** points have been included for the adjusted total points for this application, PM Rowe reported. Scoring adjustments were made in the categories of:

- Schools
- Parks and Paths: A 3<sup>rd</sup> amenity is present (agreement with the applicant - credit given for restrooms)

Commissioner Mueller said there was some confusion regarding the landscaping plans.

Chair Lyle opened the public hearing.

Scott Murray, 175 E. Main Ave., #130, said that, regarding the Parks and Paths Category, he had talked to PM Rowe and SP Linder about having restrooms for the pool included in this category. As to Housing Types, page 4, 1-b-3, Mr. Murray said four points were

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warranted, as the application presents four different housing plans; he explained the numbers of bedroom and said that the criteria doesn't say what percentage there needs to be.

PM Rowe advised the combination of types may not be correct.

Commissioner Mueller asked how many restricted BMRs will be in the development?

Mr. Murray responded that the developer is not doing BMRs. Commissioner Mueller read from the application (page 6) indicating what was checked, as he asked for explanation. Mr. Murray said he would be doing:

- a median income 1 bedroom
- 14 1-bedroom
- 14 2-bedrooms and
- 3 different plans for 3 bedrooms

Chair Lyle asked if the median 1-bedroom is to be a BMR? Mr. Murray said, "We are providing median income units but not with the BMR restrictions.

Discussion ensued regarding BMRs. Commissioner Mueller explained if the application indicates inclusion in the BMR program, the BMR must be shown. Chair Lyle points out pages 34 – 35, dealing with BMRs. Further discussion followed regarding the applicant checking off BMRs on the checklist. Commissioner Mueller said on page 6 the applicant says BMR. PM Rowe said on page 37 of the Housing Needs category the application did not receive points for BMRs.

Bill McClintock, MH Engineering, 16075 Vineyard Blvd., suggested that regarding Housing Types, points were given during the workshop on global issues. The Commissioners said four points would be awarded, with staff agreeing (page 41, 1-b-3).

Commissioner Mueller said that page 6 described the overall project as including BMRs. Chair Lyle stressed the need for consistency. "Here we find four more points," Chair Lyle said. Mr. Murray said the scoring under the Safety and Security Category would also be affected.

Mr. McClintock told Commissioners that if one reads the Housing Needs Category, page 36, B ii, compared with Bi, it doesn't say *unrestricted*, but in the materials for this competition when one read housing prices the question asked 'what price for unrestricted' with the median calculated to be same percentage. "These guys agree to do 25 percent median and 75 percent moderate unrestricted," Mr. McClintock stated. "Housing affordability as it reads doesn't say unrestricted moderates, so one could assume both" Commissioner Mueller said, technically it has not been considered unrestricted median before.

Mr. Murray called attention to page 56 of the narrative (6a) as he told Commissioners he is proposing a 7-ft sidewalk connecting to the CalTrain/VTA parking lot and asked for one point for that connection.

As there were no others present to speak to the matter, the public hearing was closed.

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Commissioner Koepp-Baker asked about the two different phasing schedules. Mr. Murray said the project would be built 50 units – 50 units – 36 units.

Chair Lyle inquired as to a commencement date for the work? Mr. Murray said it would begin in 2007 and further indicated that it was not possible to get financing if less than 50 units were allotted to the project in the first year.

PM Rowe announced that the total points, as adjusted, for MC-05-06 were: **172.5**.

**5) MC-05-07:** A request for a Residential Development Control System (Measure C) building allocation  
**MYRTLE-LATALA** for Fiscal Year 2007-2008. The project is a 6 unit single family attached development on .45 acres located on the south side of Myrtle Avenue between Monterey Road and Church Street.

PM Rowe gave the staff report, stating that the adjusted scoring for this application had resulted in an additional two points for a total of **157** to begin the discussion in this meeting. An application in the Affordable Competition must score 150, he said, and the other competitions require 160. This project, he said, is below the threshold, but with adjustments could be eligible. Chair Lyle said if this project had been in the Micro Competition, then it would have been above the above minimum. PM Rowe agreed, but advised that very small projects don't score well in the Open Market Competition.

Chair Lyle opened the public hearing.

Bill McClintock, MH Engineering, 16075 Vineyard Blvd., represented the applicant and told Commissioners, referencing two issues in the letter he submitted, regarding this application which are global issues. Mr. McClintock says he thought the application will get passing score on review of the Safety and Security Category, which would bring it to 159 points. He also said points are warranted for the alarm system. "We tried our best and went overboard in the Housing Needs Category," Mr. McClintock said. PM Rowe noted the need for clarification under Safety and Security B-2-c (hardy board construction). Mr. McClintock said that in the Safety and Security Category, 100% of the buildings will have hardy board and stucco. "One hundred percent of the buildings' exteriors will be one hundred percent fire resistant," Mr. McClintock said. "We got points under fire alarms and we want points under the fire resistant exterior criteria." Chair Lyle reminded that there was still the possibility of attaining the two Commission points in the Livable Communities Category.

With no others present to address the matter, the public hearing was closed.

Chair Lyle asked about Circulation Efficiently, 1-e on pages 50 and 51, which SCE Creer then explained.

PM Rowe talked about the allocation when building commences. Chair Lyle said the applicant should not have to split the allocations over two years. Mr. McClintock said phasing is not an issue, as the applicant only needs three allocations and has already started plans for three units as an exemption.

Total points for MC-05-07: **159**.



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**6) MC-05-08: E.  
DUNNE-EAH**

A request for a Residential Development Control System (Measure C) building allocation for Fiscal Year 2007-2008. This project is an 80 unit residential condominium development on 3.17 acres on the north side of East Dunne Avenue, east of the Union Pacific Railroad Tracks.

PM Rowe presented the staff report, saying that at the present time the application had an adjusted score of **176.5**.

Chair Lyle opened the public hearing.

Benny Kwong, 2169 E. Francisco Blvd., San Rafael, told the Commissioners that with the PUD designation on the adjacent lot will provide the required mixed use.

Vince Burgos, Development Processing Consultant, San Francisco, addressed the Commissioners regarding two requests for potential point adjustments:

- page 54, Circulation Efficiency B-1-c and B-1-j. Mr. Burgos stated tht the future extension to drive aisles shown on the site plan were part of the larger PUD and coordinated an access point for the future full driveway with one curb cut and then extending back again for a full loop . “Additionally,” Mr. Burgos said, “the drive will come out to Butterfield, also the connection is with the adjacent property for a common driveway centrally located on Diana Avenue. It will also be good for future expansion,” he said.
- regarding emergency response access, Mr. Burgos told of the location of two other access points beside the one shown in addition to a possible connection the restaurant parking lot [Mama Mia’s].

Chair Lyle asked if the applicant owns the other properties. Mr. Kwong explained the pattern of ownership with Commissioners then discussing where the City owns and the location of the planned extension. Mr. Burgos in attempting explanation cited the access routes: full access within the site and the applicant controls adjacent property, so emergency access is available.

With no others present to address the matter, the public hearing was closed.

The Commissioners discussed the location of the future railroad underpass when Dunne is developed, as well as fully addressing the issue of access. SCE Creer addressed 1-j in the Circulation Efficiency Category regarding emergency vehicle response by reading from the criteria. “From a patrol standpoint, the area and the access are limited,” he said as he indicated how the area would be restricted for patrol for Police and Fire. “We were also concerned about the turnaround,” SCE Creer said. “1-c deals with future extensions and the plan presented is extremely vague for a drive aisle and there is no provision of a stub to speak of.”

Chair Lyle reminded that one point was asked and given under B-1-e for full street improvements on Diana Avenue; “Is it worthy of 2?” he asked. SCE Creer responded that regarding the project’s proximity to the new Courthouse, there might be merit for more points. Discussion ensued regarding the giving of points if not asked, but worthy to do so. By consensus, the Commissioners agreed to give an additional point under B-1-e, for a total of 177.5.

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7) MC-05-10:  
E.FIRST-  
SHIRAZ

A request for a Residential Development Control System (Measure C) building allocation for Fiscal Year 2007-2008. The project is a vertical mixed used development consisting of 23 residential condominium units and approximately 4,000 square feet of retail space on a .58 acre parcel on the south side of East First Street and North side of East Second Street, east of Monterey Road.

PM Rowe, in the staff report, gave an overview of the scoring adjustments which has resulted in a new score of **152.5**.

Discussion ensued regarding past scoring for the various categories of the project. PM Rowe explained that fire sprinkler requirements under the Safety and Security Category, with the consensus of the Commissioners that the application would not get points if the item is required by Code, while noting other applications may present other information and be viewed differently.

Commissioner Acevedo read from the Downtown Design Guidelines saying that in the materials guidelines section the indication was that the City is trying to avoid the use of corrugated metal, while noticing this application got points for that material.

Chair Lyle opened the public hearing.

Lesley Miles and Becky McCormick, 540 W. Dunne Avenue, as well as the owner of the property, were present to address the Commissioners.

Ms. Miles said this is an exciting and unusual project taking advantage of the area and new visions. Ms. Miles addressed the following categories and discussed points received and/or requested in those categories:

- Schools for shared space for teaching /tutoring; although the space is not on this site, it is on an adjacent site and easily accessible
- Open Space B-1-e; last year 2 points (this year 1). Ownership change of the Granada has resulted in ownership change of this project with a desire to develop the site as a whole
- Parks B-4-a: the mid-block walk attachment is an accessible path through the parking lot, connecting 1<sup>st</sup> and 2<sup>nd</sup> streets on the ground level
- Circulation Efficiently: over- parking is up to 10 from 6 spaces on this site
- item B-6-a: looking at the connection of the pedestrian crossing and the configuration of the sidewalk at mid-block, plus the mid-block pedestrian access via the stairs or by an elevator for going down on the other side without going through the parking area at all
- and item 1 B-1-b, Natural and Environmental; the application in 2004 got the point; this application has the same amount of coverage and the same approach to design

Ms. Miles declared this project is important and one needs to understand the relationship of Downtown to this project, with many still lacking in ability to understand. The podium design, she said, provides access to open space.

Chair Lyle asked, “Is this project buildable without the other project (Madeline project) and vice-versa?” Ms. Miles responded, “Certainly it is more difficult economically and it could be accomplished, but it would be better for overall downtown if the two projects

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were completed together. The adjacency issues for the general public use indicate it is best to construct two projects at the same time. Chair Lyle persisted the issue as he asked if the projects could be done independently. Ms. Miles responded that could happen, as she also stressed the importance of the podium level open space.

Chair Lyle called attention to attachment 2 of the application [the Engineers Estimate], wherein improvements for *gateway art* was indicated to be \$88,000, asking for explanation of the importance and what was included for that sum. Ms. McCormick told of the design process and how the estimate was done. Chair Lyle interpreted that the cost was strictly for 2 murals. Ms. Miles spoke on the importance of developing a level of art that is professional. Chair Lyle asked where murals would face? Ms. Miles said there would be one on First Street and one on Second Street.

PM Rowe explained that DDPW Struve had scored this application on item B-4-a, page 33, with 1 additional point in the Parks and Paths Category.

With no others present to address the matter, the public hearing was closed.

The Commissioners discussed the following issues:

- Schools points asked for the tutoring space; Commissioner Mueller said if the space designed and adequate, both points should be given (the Commissioners asked if the requirement was made known ahead of time with respect to size needed; PM Rowe will research and respond at the next meeting)
- Open Space page 19; This was a global issue; past project were awarded 1 point for providing an historical plaque. PM Rowe said based on last years scoring, 1 point should be given. Commissioner Escobar stressed the need for consistency, saying, “If there has been error, that error should not be continued.
- this project scored so low last year that it did not get the attention for point adjustment.

Commissioner Benich said, “Conceptionally, we breaking new ground. During conferences and tours attended during the last few years, we saw designs that did not have open space on ground floors. We need the City to be doing other things; we need to be open-minded.”

Chair Lyle commented on the historical sites downtown, asking, “Does this project lend to that perspective?”

Commissioner Koepp-Baker noted that this project goes well with the one, creating a ‘history trail’.

Regarding B.2d under Open Space, Commissioner Benich commented: “Look at this as a new vision. It was given points and I thought it to be a great job but there is need for signs for the public to know whether the upstairs is open.” Commissioner Koepp-Baker concurred, saying, “We saw two in Pasadena that are gorgeous.”

Ms. Miles reminded of the intent to have commercial space upstairs as well.

As to the ‘high ratio of open space’ (page 20), Ms. Miles said the 60% open space is a 7-point item, and more points should have been given because the podium level is open

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above. PM Rowe said that on page 21, however, and the calculation is based on the ground level being open above. He explained that staff acknowledged open space in b, c, and d, but the question remains: basically how much land is covered by the buildings, with the information from applicant being it is 90%. Commissioner Escobar said there is need to ascertain the intent – and identify where people gather. PM Rowe noted there is need to base the scoring on information received in the application submitted on October 3, 2005 and the information on the amount of open space on the podium level is ‘not there’.

Chair Lyle said he thought there is value in the upstairs open space, but it would not be the same as on the ground floor. Commissioner Mueller commented that the question is not whether the space is in a closed area - application contains nothing that helps evaluate B.2b. PM Rowe advised that if the open plaza above counts as open space, it will be necessary to measure and verify the applicant’s calculations.

Commissioner Escobar said it appears two different evaluations are existing: if an item is in the narrative, but not the drawings, it was counted; then if it is present in the drawings, not the narrative, that should be ‘ok’.

PM Rowe clarified what was in the drawings, but advised that staff had not been able to identify the percentage in the narrative, but would do so based on the drawings.

Commissioner Mueller noticed that the open space from the ground level is easily assessable and therefore might be considered to have more value, agreeing that by the same token it is open space.

Commissioner Koepp-Baker said the applicant has indicated there will be retail and while retail may be limited, there is need to increase sales tax revenue over time for the City.

Commissioner Davenport suggested ‘splitting the difference’ by recognizing that the ground floor open space value is greater, but not ignoring entirely the value of the upstairs open space. “Do we want a situation of zero or all or in-between?” he asked.

Commissioner Koepp-Baker said it would be dependent on calculations by staff for some point(s).

Commissioner Acevedo said he would prefer deferring to staff to provide the numbers for a open space calculation. “I’m not clear on how to get to the (upstairs) area with no signage,” he said.

Commissioner Mueller said if there is to be retail, the applicant working with staff needs to identify the utility for open space calculation. Commissioner Mueller also commented this is ‘breaking new ground’ and one might say the criterion doesn’t really fit, but the upstairs open space has value and precedence can be set through scoring.

Regarding the Public Facilities Category on page 28 (murals), AE Gittleson explained that the figure of \$1500 /unit was obtained when recently the applicant gave a cost estimate for the improvements on private property. AE Gittleson told of the staff/applicant interview, wherein he was presented with the \$1500 per unit cost, along with additional improvements on the private property which would be visible to the

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public, including the cost of 'public art' at \$88,000. Commissioner Mueller said that appears to be new information if it was not mentioned in the application. Commissioner Benich asked when the cost estimate was given? [December 7, 2005] Commissioner Escobar said the item under discussion is shown on the plans, but was not easily identifiable. Chair Lyle explained the difficulty of calculating costs of murals from the drawing(s) picture.

The Commissioners discussed scoring for the application regarding the public arts at a cost of \$88,000. Commissioner Mueller stated the applicant is asking for 3 points in a 4-point category and has been given 1 point. Commissioner Acevedo asked how visible the art would be as the area indicated by Ms. Miles is not readily assessable and passersby would have to know where it would be. In looking at the drawing, it appears there would be conflict on the location. PM Rowe reminds that the point was given for the dollar figure in this competition, and the scoring was based on what was submitted in October, 2005.

Commissioner Escobar interjected that it appears some suggestion is being made that clarification should be given at an initial interview. Chair Lyle conducted a straw vote which resulted in no additional points.

PM Rowe said the application had received points for Parks and Paths, and the mid-block pedestrian connection received points as well. The Park/Open Space cannot be expanded to future development as illustrated by B-5 (page 33) regarding the mid-block path. Commissioner Mueller indicated thinking there would be need for further review of the issue of safety in the matter of a path under a podium installation.

Chair Lyle said he has lingering concerns that the same applicant benefits from both projects, and recalling this issue has surfaced previously.

Commissioner Mueller said the other project has a long narrow path which is not well utilized. "Would this be used?" he asked. Other Commissioners expressed concern about this path winding through the parking area, and agreed there were some qualifiers the subcommittee for criteria needs to study.

PM Rowe advised the application had gotten a point in Parks and Paths Section B.4a, but with Section B.5b where the criteria talks about the creation of the neighborhood park, which left it up to the Commissioners to determine if the next project would join with this one for a larger park? He reminded that it was not intended for the downtown projects podium areas to have an aggregation of open space. In order to achieve a larger open space, PM Rowe said, the idea was to develop more of a neighborhood park not connecting plaza areas. Commissioner Mueller said the neighborhood park concept would work, but expressed doubts that if part of the park was on the podium area whether it could be clear of the park space at the top.

Further discussion was engaged regarding the following categories:

- Housing Types; the application indicates 2 housing types, but City Standards indicate insufficiency for townhouses; housing on 2<sup>nd</sup> floor over retail equals stacked flats onto a single-story
- Lot Layout dealt with as a global issue
- Circulation Efficiency, B-1-k, public parking provision in downtown;

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Commissioner Escobar reminded that the whole intent is to bring people to downtown for vibrancy. If taken in context, there is far less parking than before, Chair Lyle said. Commissioner Benich noted the classroom area had received no points and noticed that the City should work toward 'something meeting code not extra'. SCE Creer noted that staff was only counting 43 spaces and were unsure why 52 spaces were presented in the application. "Were some spaces being obtained with the Sherman project?" he asked. Chair Lyle agreed that might be the case, and said some spaces were tandem spaces. Commissioner Koepp-Baker said it is important to ascertain that the applicant is providing spaces with this use. PM Rowe said the issue will be addressed in the Parking Management Plan when it is presented; he cautioned that this application does not meet the requirements currently in place. Ms. Miles indicated that the applicant had miscounted spaces on the site.

- Safety and Security contain items required by Code. Chair Lyle questioned items on *page 60*, noting the application did not stipulate hard-wiring, but were recommended to do so in order to receive 1 point. PM Rowe said staff will reevaluate B-6, as well as B-4. Chair Lyle asked if a Neighborhood Watch

Program must encompass some minimum number of units for a watch program. PM Rowe was directed to check on the viability of having such a program if the units are on the 2<sup>nd</sup> floor.

- Natural and Environmental under 1-b, the restriction of the amount of runoff due to impervious surfaces. Ms Miles said they were talking about using pervious concrete, but it will be covered by a podium. Ms. Miles spoke on water drainage patterns and said that in this case – the applicant is planning on adding additional landscaping area so the pervious areas will be greater and will be incorporated and protected. Typically in downtown, Ms. Miles said, there is not a requirement to accommodate additional runoff, but some planting areas will be added.

Current point total for this application was announced to be **153.5**.

**8) MC-05-11:  
E. THIRD-  
GLENROCK**

A request for a Residential Development Control System (Measure C) building allocation for Fiscal Year 2007-2008. The project is a vertical mixed use development consist of 8,000 square feet of ground floor retail space on the south side of East Third Street and a mix of townhouse and condominiums totaling 57 units on the west side of Depot Street and north side of East Fourth Street.

PM Rowe gave the staff report, calling attention to a letter distributed by the applicant, Locke Garcia. PM Rowe further referenced pages 32 and 33 (just before the table) and provided explanation of the points dividing the amenities resulting in a 1-point reduction for item # 2. The shade trellis was not an eligible amenity for a project of this size. The project as scored by staff rated a total of **151.5**.

Commissioner Acevedo said the subcommittee for criteria may need to look at this in the future, as the amenity list is limited in high density projects.

Chair Lyle opened the public hearing.

Locke Garcia, 1000 Old Quarry Road, San Jose, addressed the Commission regarding the

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following categories:

- Schools, safe walking route to Live Oak high school; 2 points
- Open Space, B-1-d (bicycle lanes); Mr. Garcia said he is committed to putting in bicycle paths where none presently exist, either paying an in-lieu fee or install the lanes; he said he has discussed this matter with staff.
- Open Space; Mr. Garcia indicated a ‘major difference’ here with what he has worked to create.... Mr. Garcia reminded of the Sunsweet opportunity site and the monies put toward that site, saying he wants 6 points in view of the work being done with City staff regarding how and where the expenditures will be. “I’ve spent \$376,000 of my own money. I don’t know what the City wants, but I will make a commitment.”
- Lot Layout; Mr. Garcia said staff was incorrect, but indicated willingness to move the trash enclosure 10-feet to the south and not be in the easement
- Circulation Efficiently; Mr. Garcia said he is committed to the MOU with the City and assumed discussions were continuing between the City and his attorney. Chair Lyle questioned whether the parking lot is partially on privately/individually owned land and partially on leased land? Mr. Garcia said it is also on the Lee property, adding that Mr. McClintock is working on the matter, but the project can be done without the Lee property.
- Landscaping; Mr. Garcia said he had agreed to all the conditions.

Commissioner Mueller discussed with Mr. Garcia the matter of dollar values for the plaza, asking how it was spelled out: dollars per unit or a total amount. Mr. Garcia said it is an amount to double the open space fee.

Bill McClintock, MH Engineering, 16075 Vineyard Blvd., spoke to the categories of:

- Public Facilities B-2-a, referencing the water line where the application had not received points for putting water lines through the public parking lot. The line is not on site, but is on City property, he said.
- Circulation B-1-c, page 55, indicates the future extension of drive aisles and showing 2 probable designs with and without the Lee property. Mr. McClintock said he has shown options and told of driveway design alternatives, asking for points for connecting shared access of drives
- Circulation B-1-i and h; Mr. McClintock spoke about landscape monuments; noting there is no entry monument on the plans, but has outlined the monuments in text under the criteria on page 55, item 1-i.
- Landscaping B-1-e, Mr. McClintock reaffirmed the commitment to fund by the applicant
- Landscaping B-1-f, page 64, the preservation of an existing tree is shown on the site plan; Mr. McClintock compared the one big heritage oak to be preserved to that in the Syncon application during the previous competition.

Commissioner Mueller asked what the total amount of square footage of retail is anticipated to be? Mr. Garcia responded it will be in excess of 10,000 sf. and told the Commissioners that the basic commitment requires 8,000 sf.

Commissioner Acevedo led discussion regarding the Natural and Environmental Category, with *streams* being highlighted. “It appears there is nothing on site to preserve streams, he said, as he referenced the application narrative of pages 67 and 68.

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It was ascertained that changes had been agreed to Schools B-3-a with either the applicant or the City doing the work. PM Rowe advised a commitment had been given to establish the safe walking route, but at the present time there was not a safe waking route due to lack of sidewalks on Depot Street, but Mr. Garcia had made the commitment.

All the Commissioners revealed discussion of this application with Mr. Garcia, except Commissioner Davenport, who Mr. Garcia reported was not available.

Mr. Garcia spoke to B-1-d, noting the application has shown there is not a separate pathway, but historically it has been done and he assured he would put in a sidewalk where there is none. PM Rowe said the only question is: will the applicant be providing the sidewalk or not? PM Rowe advised if the Commissioners feel there is sufficient commitment here, they may give points for service not provided. Commissioner Mueller said we need to be careful about giving points in several categories for same dollar value.

B-3-a : PM Rowe said there is some question whether Sunsweet Plaza qualifies as public or private and the basic question is if the Commissioners are willing to recognize the plaza portion behind the promenade with meeting the criteria for Open Space amenities? Chair Lyle interjected, saying the question is whether the plaza is integral to the project? Commissioner Escobar asked if the grant submitted was for the plaza or the promenade. PM Rowe explained the probability of public funding for the project.

Mr. Garcia told of the location of the mid-block connection and informed that where the application got the point he logically could not spend \$376,000 on that area. Staff has said that some will be spent on public right-of-way and Mr. Garcia must work with the City on a design where dollars will be spent on 3<sup>rd</sup> Street. Consequently, a point was agreed under B-1-d under Open Space.

In the area of water gridding, AE Gittleson said that is not a portion of solving the problem. The applicant, he said, is proposing double gridding, which is not a help, but actually causes problem for Public Works. Commissioner Escobar commented he could not see where this item was based in the criteria. Commissioner Benich asked why the developer would want to add more lines if it is already gridded? AE Gittleson explained it would only benefit the applicant/developer, as the service area is too small. "We don't know how the applicant will provide water as a result," he said.

Excellence of Lot Layout: Mr. Garcia said that regarding the Morgan Hill Times building, the project design shows the use of neighboring property for access which benefit parcel 1, but there are other issues: The Ordinance from the City Council says the primary access will be off Depot and 4<sup>th</sup> Street. SP Linder clarifies that the issue is 'point of access from Third Street'.

Commissioner Escobar expressed concerned that the Commission had perceived a good idea for parking lot placement (behind the building) and now had to talk about access differently. SP Linder reminded that the project as submitted is showing activity on someone else's property. She also said that another issue is the frontage improvement(s) to be provided by the applicant. Commissioner Mueller said he thought it was clear what the City would be getting the applicant to pay for on Depot street: an extension of the sidewalk. SP Linder asked, "Or will he be paying for the entire Depot Street improvements as shown on the plans?"



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Regarding the Circulation Efficiency Category, page 55, staff has indicated there is not a viable drive aisle. Commissioner Mueller noticed that item B-1-i is not on the drawings, but included in the narrative. Commissioner Escobar expressed the opinion that if it is one or other of the documents [narrative or plans], he would consider that to be commitment by the applicant.

SCE Creer spoke to the matter, saying that as proposed in comparison to other projects, the parking lot design would have to obliterate the multiple parking lot and this would take out most of the Lee property parking lot, so there is no merit.

By consensus the Commissioners agreed with staff, but said there were issues with the criteria. Chair Lyle said the Commissioners must be able to see the benefit. Commissioner Escobar asked where the benefit would be here? SCE Creer said it becomes a question of circulation and access. Commissioner Escobar commented that if it is criteria built for downtown, there may be the need to consider a walkway or path criteria. What doesn't work at this property because of density value, might be added to the criteria in Park and Paths, he said. Commissioner Koepp-Baker said she thought there was need to look at zoning as well.

Regarding the issue of landscape islands, Chair Lyle termed them a 'pig in a poke'.

Discussion resumed regarding the agreement of the parking lot. Commissioner Davenport indicated, "What is before us is a plan for the parking lot which we are asked to understand is not solidified." Chair Lyle reminded that in the past the Commission/City required a letter of commitment. PM Rowe said the City Attorney had provided information saying 'the scoring must be completed with information in hand'. PM Rowe said it appears if the letter of commitment is not on file, even though the applicant pledges to complete an act, there is no commitment. Commissioner Mueller said he understood the requirement of letters, but to go back to when the PUD was being set up and the Commission gave clear direction where they wanted the parking lot. Commissioner Mueller advocated giving points because the applicant was trying to do what the Commission wanted. Commissioner Acevedo also supported giving points, as the parking lot on the southeast mostly is on property purchased from the City, he said.

Landscaping screening: not committed to, but the applicant agrees it will happen. The Commissioners asked who is providing the street trees, e.g., has the applicant agreed to planting/paying for those improvements? SP Linder said no commitment had been made for those improvements and asked if the City pays for them, would points be given? Mr. Garcia spoke on paying for trees in addition to the \$376,000. Responding to Commissioner's questions, Mr. Garcia said the dollar value for 3<sup>rd</sup> St. expenditures would be \$1.3 million. Commissioner Acevedo asked if this site [the 3<sup>rd</sup> St. street trees] was 'someplace else' and trees were on that landscape plan and as the applicant for this project would he be paying for them in that case? SP Linder said the improvements on the drawings are on Mr. Garcia's own property, not as shown here because he is 'banking on the City obtaining a grant to pay for them'. Staff was directed to obtain clarification whether the applicant is paying for the trees or not.

With no others present to address the matter, the public hearing was closed.

Discussion of the big heritage oak to be preserved was renewed.

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Chair Lyle surfaced another issue, saying the limit for moderate rate housing is about \$650,000. He said the distribution of housing listed does not meet the criteria for housing needs. Chair Lyle noted the commitment in the narrative, but said he was concerned regarding the commitment for moderate housing based on income. PM Rowe explained moderate level housing cost in this competition. Commissioner Mueller asked if it is a commitment the applicant must do – whether the requirement that one must meet the income level for moderate practice was being followed? Chair Lyle asked what will be done if the applicant comes back and says we can't find buyers, so there is the problem.

Concluding discussion of the item, it was noted that the total adjusted score for MC-05-11 was **165.5**.

*Commissioner Acevedo was excused at 11:00 p.m. for the remainder of the meeting due to potential conflict of interest, as his business is located near those applications.*

### **SMALL VERTICAL MIXED USE COMPETITION:**

PM Rowe announced the scoring for all project has elevated to a minimum award score, so if the Commissioners choose to have the competition go into FY 2009/10, all 3 projects can receive a full building allotment. Discussion should be completed this evening with award at the first meeting in January, 2006.

#### **9) MC-05-03: MONTEREY- GUNTER BROS.**

A request for a Residential Development Control System (Measure C) building allocation for Fiscal Year 2007-2008. The project is a small vertical mixed use development on 1.01 acres consisting of ground floor retail and 15 residential condominium units on the second and third floors above. The development will be located on the east side of Monterey Road approximately 180 feet north of East Main Avenue.

Scored points: **153.5** before adjustments

PM Rowe presented the staff report, saying this is a small vertical mixed use development proposal on 1.01 acres consisting of ground floor retail and 15 residential condominium units on the second and third floors.

Chair Lyle opened the public hearing.

Ben Fuller, 8640 Solera Drive, San Jose, referenced Open Space B-1-e, asking for points, as the applicants were clearing the site and saving reclaimed brick to use for the monument sign and historical plaques. He spoke regarding the plaza activity area and offered further clarification that the area downstairs would be urban, very European in nature. B-1-c, page 19, he said comes into play with other scoring. As to Lot Layout, as configured there would be good use by residents and retail, as well. Continuing with Lot Layout, page 48, Mr. Fuller said he thought the lot is large enough and connects to Monterey and is very appropriate for an urban area.

In the Circulation Efficiency Category, B-1-h, page 52, Mr. Fuller explained the access from Monterey and McLaughlin Streets. "Now the gate structure has further detail provided off McLaughlin," Mr. Fuller stated.

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Safety B-2-c, page 58: hardy board and stucco will be used on '100% of the exterior resulting in 100%' safety/fire retardant for the exterior.

B-1-b: Natural/Environmental, page 65: the applicant is replacing a completely covered site and requested points because they are replacing blacktop with a landscape for the interior lot, as well as in and around Monterey Street.

Chair Lyle asked when the applicants would be able to start the project? Mr. Fuller responded they plan to start in 2007 and added, "With these urban projects, there is need for efficiency."

Craig van Kuelen, 385 Main Ave, spoke on the historic element of the saved bricks, indicating further use in the plaza area on the ground, also for walks, but also in plaques, pictures, and the monument area. He stressed the bricks would be reused in the plaza area.

With no others present to address the matter, the public hearing was closed.

PM Rowe spoke on information being given now, but not in an application and said in such cases scoring by staff was made more difficult. Commissioner Escobar asked if this was indeed not clarification, but new information. Commissioner Benich said that as he looked at the project as it comes in off Monterey, he felt it deserved points. Commissioner Escobar reminded that Commissioners are not to complete the evaluation on merit, but as the original application was presented.

Commissioners discussed the plaque issue more in-depth, thinking that more than 1-point might be awarded because of the use of the original bricks, deciding however to leave it at one point.

Orderly and Contiguous: the storm drain feature could add a point, the Commissioners decided. SP Tolentino spoke to the storm drain, saying this project would need to put in a new storm drain and the applicant would have to extend the storm drain, as a connection is not readily available. AE Ha explained that the application shows the storm drain main on Main Street, which is a very small pipe, and therefore the storm drain line on Monterey Road could not service this application, and so the extension would be needed. AE Ha also pointed out that the storm drain main on Monterey would have the line tying into a sidewalk. "We'd rather have it on the street." he said.

Chair Lyle asked about the consistency of scoring Parks and Paths and Circulation Efficiency, noting the criteria is identical in 2 places. "However, the application got a point in 1 place and not the other." he said. SCE Creer responded, saying staff saw criteria in pedestrian connection on the site plan, but he saw one had to enter a gate and then go through the building with the resultant concern: the project will be gated and the doorway must be accessed. Chair Lyle asked in points should have been given in both places? PM Rowe agreed they should be scored the same.

Commissioner Benich turned to page 48, B-2-a saying, "Staff scored this at 0. It seems that the applicant plans a European design and I think that design is worth a point for the plaza – it will be a 'great addition'." PM Rowe explained the depiction of the plaza was not on the site plan that was submitted for the competition, and underscored the need for

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consistency. Commissioners did not support additional points.

With adjustments, the total for this application was **164**.

**10) MC-05-04: E.  
FIRST-SHERMAN**

A request for a Residential Development Control System (Measure C) building allocation for Fiscal Year 2007-2008. The project is a small vertical mixed use development on .39 acres consisting of ground floor retail and 7 residential condominium units on the second and third floors above. The development will be located on the east side of Monterey Road north of East First Street.

Initial scoring by staff total: **160**

PM Rowe announced that with the adjustments to scoring, this application was now scored at **167.5**

Chair Lyle opened the public hearing.

Becky McCormick, 540 W. Dunne Ave., told where the entrances were to be located and indicated the design of the residences will benefit those residents who truly live and work in the downtown. "These are units for those working from home," she said.

Having thoroughly discussed the townhouse issue during the workshop, the Commissioners agreed this continues to be a global issue. Chair Lyle said there was need to look at this application in the Housing Types Category, 1-b, page 40.

Other categories discussed included:

Open Space, which the Commissioners said applies to other projects as well, and also page 19, criteria B-1-b, 1-c, and 1-d. PM Rowe said staff gave points when looking at 1-d: connecting into the courtyard. The Commissioners clarified that the *public parks* are not considered parks, they are courtyards.

Discussion ensued about the planned retail on 2<sup>nd</sup> floor, with the Commissioners asking if this could become a gathering spot for people? PM Rowe indicated the applicant appears to be looking at the area differently, more like open space with retail added.

The Commissioners also discussed:

- the convenient access to parks as being internal to the project with Pedestrian Pathways provided and asking questions as to sizes and widths of the pathways
- Lot Layout

PM Rowe advised that with B-1-e, page 19, although the application was not completed, 1 point was agreed.

Discussion was renewed in the area of public art in the public facilities category with Commissioners asking how many dollars per unit were to be spent.

With no others present to address the matter, the public hearing was closed.

Final score for this application: **167.5**

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**11) MC-05-12:** A request for a Residential Development Control System (Measure C) building allocation  
**DEPOT-GRANARY** for Fiscal Year 2007-2008. The project is a small vertical mixed use development consistent of ground floor retail and 12 residential dwellings on .68 acres located on the east side of Depot Street, north of East Main Avenue.

Staff had scored the application a total of **166.5**

PM Rowe noted the changes made in scoring by school representatives adding 2 points under Schools B-2-d for a safe walking route.

Chair Lyle opened the public hearing.

Charles Weston, 540 W. Dunne, announced that with this project he went go through the pre-scoring process which provided clarification and brought up issues for other designs.

Mr. Weston said, "If you try to increase density downtown, but take away the courtyard, it will be very difficult to do. It has to do with vibrancy. Mr. Weston said he thought the projects being scored (small vertical mixed use) are major projects for downtown. Those will be smaller and more difficult to score," Mr. Weston said, adding he has worked hard on the projects presented.

Chair Lyle asked when Mr. Weston envisioned beginning the project. "Right away,"

Mr. Weston responded, acknowledging he was constrained by the day workers facility, with a commitment only to May 2006.

With no others present to address the matter, the public hearing was closed.

Total adjusted score: **168.5**

**ANNOUNCEMENTS:** Commissioner Davenport said he had been contacted to be a representative for the Open Space committee/roundtable for Santa Clara County. He explained he was unable to participate, but had agreed to pass on the information for Chair Lyle to deal with. The Commissioners briefly discussed the meetings and said a representative would be considered.

**ADJOURNMENT:** Noting no further business to come before the Commission at this meeting, Chair Lyle adjourned the meeting at 11:50 p.m., with all present expressing wishes for a happy holiday season.

**MINUTES PREPARED BY:**

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**JUDI H. JOHNSON, Minutes Clerk**